

Remarks

Status of Claims:

Claims 1, 5, 7, and 21-34 stand rejected. Claims 1, 21, 25, 26, 34 are amended. Claims 1, 5, 7 and 21-34 remain pending.

The claim amendments made with this RCE are made without prejudice to applicant filing one or more continuation applications with claims as originally filed or previously presented.

Support for the amendment is found in the specification and drawings as filed, including but not limited to paragraph 0046 which explains that when a metallic or otherwise conducting piercer 70 is employed, distal piercing tip 72 is energized when wire 434 is energized. No new matter is added.

§ 103 Rejections:

Claims 1, 5 and 34 are rejected as obvious over Wardle et al. US2002/0120211 (Wardle) in view of Truckai (6,485,436) or Shaddock. Claim 21-25 and 27-33 are rejected as obvious over Wardle in view of Shaddock.

These rejections should be withdrawn for the reasons set forth in the prior responses, and all previous arguments are maintained.

Further, it is respectfully urged that with respect to the amended Claim 1, it is not seen how the combination suggested by the Examiner would teach or suggest a tip electrode is disposed distal of at least two electrodes disposed on a sleeve when the tissue piercing element is received in the hollow sleeve.

With respect to amended Claim 21, it is not seen how the combination suggested by the Examiner would teach or suggest a sleeve having at least one electrode and a conductive tip electrode slidably received within the hollow sleeve.

With respect to amended claim 34, it is not seen how the combination suggested by the examiner would teach or suggest, among other things:

a hollow tissue piercing member having tissue piercing distal end comprising an energizable electrode and a tissue receiving port spaced proximally from the tissue piercing distal end;  
a hollow cutter translatable within the hollow tissue piercing member for severing tissue received in the tissue receiving port at a sample site within the tissue mass; and  
at least one electrode disposed outwardly of the hollow tissue piercing member, wherein at least a portion of the electrode is positioned proximally of a distal most portion of the tissue receiving opening, and wherein at least a portion of the electrode is positioned distally of a proximal most portion of the tissue receiving opening.

Based on the foregoing, Applicant respectfully requests reconsideration and allowance of the pending claims.

Respectfully submitted,

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October 6, 2009